

City of Coral Gables City Commission Meeting
Agenda Item F-1
March 23, 2010
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II
Vice Mayor William H. Kerdyk, Jr.
Commissioner Maria Anderson
Commissioner Rafael “Ralph” Cabrera, Jr.
Commissioner Wayne “Chip” Withers

City Staff

City Manager, Patrick Salerno
City Attorney, Elizabeth Hernandez
City Clerk, Walter J. Foeman
Deputy City Clerk, Billy Urquia

Public Speaker(s)

F-1 [12:44:14 p.m.]

General discussion on UBC and the Charter School Issue.

Mayor Slesnick: Ms. Anderson F-1.

Commissioner Anderson: Thank you, this is a general City Commission Item under my name entitled, “Discussion on UBC and the Charter School Issue;” and I brought this up for discussion at the end of last Commission meeting, and I had a lot of thoughts about it; and I also spoke with a lot of neighbors, and I had a lot of neighbors and I also had some questions of my own. So my purpose today is to gather more information. To me, it is nothing personal against any party or any person that is involved in it. Whether it be UBC or the Charter School regarding this project, but it does have a potential impact on the City, so I do feel it is important to raise this. Charter Schools are viable alternatives to education ratified by Florida law, and I am not going to discuss the merits of that at all here, that is not the case for me. For me anything that raises the level of education opportunities in the Gables is always welcome. My concern lies mostly in what this Charter School will have on the surrounding neighborhood. As it stands today, the Church and the neighbors have lived peacefully together for a long, long time, and certainly UBC is an iconic, not only from an architectural standpoint, you can recognize it, but from its long standing membership in the community, certainly one that people understand and respect, but what I think in conversations with the neighbors and kind of in an internal dialogue that I have had it is not the issue of the school, I think people don’t mind a school per se, I think what they are more concerned with it’s the magnitude, the scale and what they believe to be a lack of transparent process. I have similar concerns, but I am not going to make any judgments until I have more information, which is what I am going to layout, in a couple of questions that I am going to ask

our City Attorney to come back with, and to her credit she has had some conversations, but I would like to pursue it more and in depth, because I believe time is of the essence here and something that I worry about is what will happen to the neighborhood, if certain things happen and are allowed to go forward as is. Not knowing our rights, I am going to put these questions on the record. Number 1, can we get a historical timeline as to how this project occurred via the school board and when it got on the City's radar?-included in that I would like memos, emails and any correspondence in the report, that way we have a sense of where it came from and that is also important to put it into context. What is the existing zoning and land use of the entire property?-including the buildings on the north side of Anastasia Avenue. Number 3, what can be built by right or via any zoning or land use changes on A, the existing church site, which is on the south side, or B on the northern apartment buildings? What rights do we have as a City in terms of the following: general traffic issues: fire and life safety issues, recreational facilities?-are they planning to use the youth center, a concern, arrival and dismissal procedures school bells, noises, cooking related issues?-because it is going to be a full school they are going to have meals, and that is a concern as well, special events; and I think the next two for me are critical do we have any rights as a City to place restrictions on the existing proposal as far as student caps?-because right now the maximum that is in the proposal is six hundred and seventy five students and if we can look at the building itself, we know that, that is not enough. That building I don't think is enough to hold six hundred and seventy five, so there is inevitably a plan to grow and I would like to know what the proposers are going to do, to address the concerns of the neighbors; and another important questions, is what is the school's Master Plan? How are they going to grow? How are they going to go about it?-are they going to use the apartment buildings across the street for that? And I would like to get that information. I know that you have worked on it and I have a few more and I have a few more observations. It is just really what concerns me is a lack of transparency, and for many people there are some that knew, some Commissioners that knew, some Commissioners that didn't know and some Commissioners were after thoughts, you know toward the end of the process, and that part doesn't bother me, but that goes to tell me that there is something more to me than that, what concerns me is the transparency issue. At this point, I would like to enter two names into the record, one statement from Mr. Carlos Carta, who is President of the Biltmore Neighbors Association sharing his concerns and a card from Ms. Roxcy Bolton, also opposed to the Charter School; and I would ask in the light that we are not having a public hearing right now, to be entered into the record, so at a future date this could be recorded in time. My goal here is just to talk with you, to give the directive, if that is the will of the Commission and also to discuss it with my colleagues, what their concerns are and their issues with this. Thank you.

Commissioner Withers: Maria, can I ask you to clarify.

Commissioner Anderson: Sure.

Commissioner Withers: When you said transparency an afterthought, are you referring to the fact that this group went through the fact finding on what they were allowed to do, as far as what they interpreted the State Statute to be and then came to the City after the fact and they should have maybe gone to the City before hand and worked in conjunction with fact finding on State Statute, is that what you are referring to?

Commissioner Anderson: Yes, that is a good starting point.

City Attorney Hernandez: We do have some information just chronologically so that you know, we have been in communications with the school board, we have asked for their entire file, we have had several telephone conferences with them and we have communicated the severe concern that the City Commission has about the lack of transparency, the lack of information that the City has received regarding public hearings that the school board was conducting in order to consider these issues without so much as notice to any of the City Officials. We have a meeting with the neighbors this Thursday, we have a meeting with the applicant on Friday, because apparently they now realize that they are severely behind the eight ball and we have a meeting with the school board officials on April 7th, I will tell you that we...

Commissioner Withers: When you say “We”, tell me who “We” is.

City Attorney Hernandez: Myself, and Ms. Jimenez and hopefully Mr. Riel are meeting with school board officials on April 7th. I will tell you that from the information that we have gathered, the applicant has not filed anything before our DRC, our development review committee, which they need to go through because the City has the right to look at many things, including capacity. The Fire Marshall is required to sign off approval, as a matter of fact the school board has a check list that the Charter School has to submit to them in order for them to be able to open, which as of yesterday, they still had not done so, and I can tell you that all of the issues that they have not complied with, but most importantly they have made no application to the City for a Certificate of Use, a Certificate of Occupancy, nothing, nothing at all. They haven’t made an appointment with the Fire Marshall, important in this is the zoning, while if the zoning that is in place allows for a school just because it is on religious property doesn’t mean they can’t go in there. The question is what did the zoning allow?-was the zoning specific to Sunday school classes?-if it was specific to Sunday school classes they have to go through our process, because they don’t have the zoning in place that allows them to have a full school facility. If the zoning in place allowed school, and allowed a Monday through Friday school facility, then they are allowed to pursue that zoning category. They have to also apply and make sure that they comply with our Comprehensive Land Use Plan I don’t believe that they have filed anything with the Planning Department showing that they....They have applied for nothing. It is not incumbent in the City to chase them down and say, come here is an application, file it. They have to comply, they have deadlines that the school board has imposed on the, which if they fail to meet, they have no opening date. So until we have an application from them, as to anything at all, there is nothing that we can consider.

Vice Mayor Kerdyk: I am confused Liz, the fact is when I met with these individuals, they told me that it didn’t matter what our zoning code was, it didn’t matter what our land use code was, the great news was that they could put this into a religious institution based on a...

Commissioner Cabrera: State Statute.

Vice Mayor Kerdyk: State Statute, so that is the question I have for you, forget all these other things, if they meet the Fire code, I mean that is all nice stuff, but the number one issue; and then the second issue for me, and Commissioner Anderson brings it up, and I understand, or at least I thought I understood that in a public school system that you have to provide your students facilities to have recreation, but in a Charter School do they have exemptions where they don't have to provide those recreational activities. So those are the two key issues for me, I mean you can forget all about this other Fire stuff, and yes that is good and I know that they have to meet that and I understand that they have an existing school, preschool that has met those fire code requirements and it might change because of the size and the scope, but whatever it is, I want to know about the Zoning Code. Can they put this in and go through our Zoning Code.

City Attorney Hernandez: And the response is it depends on the zoning code approvals that they had, if they have "S" zoning religious institution. If the Zoning category allows for a school Monday through Friday school, the "S" category, then they could go in there. If the religious institution did not have that Zoning Category...All they had is...

Commissioner Withers: Did it?

Vice Mayor Kerdyk: They had a preschool there.

City Attorney Hernandez: The only information we have is that it is an "S" zone, the information that we are getting back is that it was just Sunday school.

Commissioner Withers: Well let's find out did it, if we knew that was the question, why didn't we answer it.

Commissioner Anderson: There are a lot of questions.

Mayor Slesnick: They did have a preschool Monday through Friday.

Commissioner Withers: Did their original application allow [inaudible]. So what you are saying, it all boils down to what the church is allowed to do in there?-that is the bottom line.

City Attorney Hernandez: Right. And then in addition to that, however gentlemen, in addition to that, there are also other issues that they have to comply with, which includes the Fire Marshall issues, the traffic...

Commissioner Anderson: There was actually a section that was given to me by a resident and I am going to give it to Liz, which is section 1002.33 and it talks about meeting the codes, it talks about meeting building codes, fire codes, applicable local building codes. You have that, right?

City Attorney Hernandez: And that is part of the DRC process.

Commissioner Cabrera: The bottom line is, is that I think we have all in the last few hours, have read emails going back and forth and I think we have all been made aware of the fact that there

have been discussion between Academica, which is the company that I believe is proposing the Charter School and the City, dating back as far as a month ago. And according to the attorney for this Charter School company, City staff was to have made contact with Academica, and that according to his email no one has responded, so I think that it would be helpful that there be some kind of outreach for the company as well as the school board as you have outlined.

City Attorney Hernandez: Right.

Commissioner Cabrera: And the State, we have already discussed with our Lobbyist that represents us in Tallahassee to look into the Statute at our workshop that we conducted last Wednesday. We gave him that direction, and therefore I think that there needs to be some further work being done, but I also think it is important at this juncture to understand, because I need to really get a good feel for this one, who is going to have the accountability for this process from the City side?-because I need to know, because when I get a resident that writes me an email or wants to speak to me and I forward it, I am not sure who I forward it to these days, I end up forwarding a copy to Ms. Menendez, and I end up forwarding a copy to the City Attorney's office, and I just want to see who is accountable for this process, because I think that is critical as we move closer to it. Any thoughts on that matter?-Commissioners, Mr. Slesnick?

Mayor Slesnick: I would like to hear from the City Manager, I mean I presume that our City Manager's Office and City Attorney's Office are working in coordination with one another.

City Attorney Hernandez: Right.

Commissioner Cabrera: I want to know, I don't want to have any fingers pointing...

Mayor Slenick: Mr. Cabrera, would like to know Mr. Manager, when he is in a quandary as to what to tell a resident or who to refer them to.

Commissioner Cabrera: It is more than that Don. Don it is more than referring, it is knowing who to go to when you need to get the information at your fingertips, then- because like I just got done saying, for the first time ever, I read an email from Marcus Daniel Jimenez representing Kasowitz, Benson, and Torres and Friedman, and he is letting us know that he represents Academica, and I see dialogue going back and forth as late as last night at 8:14.

City Attorney Hernandez: Well that is the first time that he reached out.

Commissioner Cabrera: I understand, and I appreciate the fact that you were helpful enough to forward this to us, so that we can all read it, because I learned a lot, I read the Statute, I saw the position that the attorney was taking, I didn't realize that there had been a meeting between the attorney, excuse me, representatives of Academica and the City Manager's Office. I didn't know anything about that.

City Attorney Hernandez: But they have done courtesy calls on numerous individuals, but that doesn't mean...

Commissioner Cabrera: Well they met with me...

City Attorney Hernandez: ...they haven't followed a process.

Commissioner Cabrera: I know, I know and Chip is right when he asked the most pertinent question of the day, that is where we need to be going?-and yes, I did meet with them last summer, I met with Mr. Sheffield, State Representative Fressen, and I believe 3 other gentlemen from Academica, it probably lasted a whole 20 minutes and I gave them two words of advice, number one, work with our City to find out exactly what are the parameters so you can even apply for this process and number two, please do an outreach program for the community at-large and incidentally Vice Mayor Kerdyk, I was told back then, probably not in as much detail as you were, that for all intensive purposes there was not a whole lot that the City was going to do about it and that is when I kind of put the brakes on the process and said, well you may want to go and talk to our City staffers and find out if in fact that is the direction that they agree with you on. And unfortunately, they did not speak to Ms. Anderson.

Commissioner Anderson: They attempted, at that point it was about two weeks ago and I declined because I wanted to make sure I was better informed and I thought maybe I didn't know where I stood...

Commissioner Cabrera: No but they didn't talk to you last summer.

Commissioner Anderson: No they didn't talk to me last summer, I was kind of the, two and half weeks ago they reached out.

Commissioner Cabrera: Yes, I understand. That is my point, and that of course all of us, as far as people that sit up here with me, that are elected, learned about this on Thursday March 4th at 8:27 p.m., when Mr. Carlos Carta sent us all an email, and actually he sent an email to the Manager, and copied the Commission, and about 15 to 20 minutes later I called him and had my very first conversation with him about this matter. So that is the way it went down.

City Manager Salerno: Mayor.

Mayor Slesnick: Yes Mr. Manager.

City Manager Salerno: Thank you, I think putting into context what those recent emails that Commissioner Cabrera refers to, what you have is representatives for Academica asking for the City's legal position as to what rights and role we will take in regards to that, we have the City Attorney responding that she wants to know what they think are our rights and our roles. Staff needs, and we are not going to take direction from Academica's legal counsel, we are going to follow the lead of our counsel; and before we can respond intelligently and forthright to Academica, we need to know the answers to frankly many of those questions and some others that Commissioner Anderson put forth today. Once the legal parameters of the City's role in reviewing this project have been clarified, at that particular point then the City Staff will be in a

position to respond and deal with that project. But right now, you have their attorney and our attorney both asking each other to do something, and as I said Academica's attorney asked for what the City's position was and we are correspondingly, and not speaking for Liz, but the email says you provide me, your legal basis for that. Staff just simply wants to get a legal premise upon which we should proceed and evaluate any project that may come through the door, but until we get that we are not going to play lawyer. It is too complex of an issue for staff, planning staff and staff otherwise to deal with.

Mayor Slesnick: So the answer is then that once the City Attorney lays out the legal framework and the legal foundation, that we will come back to the City Manager's Office for really working over the project within the legal framework that is given to you by the City Attorney.

City Manager Salerno: Yes, Mayor.

Mayor Slesnick: And I take it that in that review by your office, the Planning Department will probably have a role.

City Manager Salerno: Oh, absolutely!

Mayor Slesnick: The Fire Department will have a role, and I take it that up until now, Mrs. Menendez has been coordinating those roles, I assume she may still continue to do that?

City Manager Salerno: Ms. Menendez, I think she is waiting on the answers to those questions, before any meaningful...

Commissioner Cabrera: Let's not get stuck with this.

City Attorney Hernandez: May I respond?

Commissioner Cabrera: Before, you respond, I want to respond. But I want to be clear, so I got two answers, I got one answer that from the legal standpoint, you are accountable.

City Attorney Hernandez: Right.

Commissioner Cabrera: From the overall standpoint, the Manager's office will hold the accountability, but I also got the impression from the dialogue between your office and the attorney for the Charter School company, that you have essentially said that, "hey you are the ones that need to come to us" with your proposal.

City Attorney Hernandez: Bingo.

Commissioner Cabrera: And that was a point I stole away from you.

City Attorney Hernandez: Well, two things, first of all I have met with Ms. Menendez and other individuals and we went through what is our DRC process and the application that needs to be filed

by Academia. We do not advise the attorneys for other individuals who wish to do business in this City as to what their role is. It is their responsibility to guide their clients, and that is our response to them. They take the position from the first time they informally met with the City, that they don't have to follow any rules. We did not accept that position and we in fact told them, we don't accept that position and you still need to go through the process. We told them at the time that they had to show compatibility with land use, we went through everything that Academia was supposed to do and we encourage them to start the administrative meeting process, which they didn't do, they didn't even follow up with the rest of the City Commission. I mean they only met with the Manager a month ago.

Commissioner Cabrera: But Don, you know what, here is where I don't want to get stuck, and I don't want to take sides on this, but here is the bottom line. When Ms. Hernandez met with professionals staff and was advised that representatives of Academia had not supplied any information.

City Attorney Hernandez: What am I suppose to look at?

Commissioner Cabrera: And that they had not applied for any occupational licenses, certificate of use, or filed any application through the DRC, their failure to act raises no legal issues at the present time. That is really the quandary that we are in. So at some point in time somebody at Academia or the attorney better come to us with the appropriate request, so that we can begin a legal position. But you have a point, that there should be a legal position based upon the use, the current use of UBC, and that is a good point.

Mayor Slesnick: I am assuming Ralph...Well I am also assuming that if they are serious, and they seemingly are serious about wanting to run a Charter School, that if they are serious, they are going to be here, now this has risen to a discussion of the Commission that they are going to be here, and they are going to be here soon, in fact that Liz has a meeting set with them, so I assume that at that point in time we are going to know their intentions and what they are going to do.

Commissioner Withers: But we need to go into that meeting knowing what our position is.

City Attorney Hernandez: Our position as to what?

Commissioner Withers: Well you mentioned that, if our Zoning Code allowed University Baptist Church to have an 8 to 5 Monday through Friday school, these folks can have an 8 to 5 Monday through Friday school, that is what I heard you said.

City Attorney Hernandez: Yes.

Commissioner Withers: So my question is does our Zoning Code allow University Baptist Church to have an 8 to 5 Monday through Friday School?

City Attorney Hernandez: Chip, my response is, that when any developer or any applicant comes to the City they submit a letter to the Building and Zoning Department, but what I am saying is, if you want us to do their job for them, we will.

Commissioner Withers: I am officially asking you, does University Baptist Church have the right to have a school 8 to 5, Monday through Friday? That is my simple question.

Commissioner Cabrera: And we need to get that answered, but that maybe mute, because under Florida Statute 1002.3,3 "Church facilities may provide a space to Charter Schools within their facilities. I am going to start over again "Church facilities may provide space to Charter Schools within their facilities under their pre-existing Zoning and land use designations." That is where you come in.

City Attorney Hernandez: Right.

Commissioner Cabrera: Therefore churches are not required to obtain variance or other change in land use designation in order to provide space to Charter Schools. While Academics welcomes any discussion regarding the Charter School at UBC, and it is eager to demonstrate how the school would benefit the community any suggestion that UBC needs zoning or land use approval for their Charter School would be incorrect.

City Attorney Hernandez: No, but that is their position.

Commissioner Cabrera: That is their position, I read a portion of the Statute, and then I allowed the paragraph to be completed by giving the attorneys opinion.

Commissioner Withers: So what is our position?

City Attorney Hernandez: Our position is that they must show compliance with our land use plan. Our position is that unless they can demonstrate that the "S" zoning that they have on the property allowed Monday through Friday school, that they have to back and meet those requirements. That is our position.

Commissioner Withers: But wait, it just said that they didn't have to meet those...requirements.

City Attorney Hernandez: No that is, He is reading what they are saying.

Commissioner Cabrera: No, I am reading part of the law...

City Attorney Hernandez: The law says that if you have the zoning at the religious institution where you are at, you don't have to come in and get the zoning, but if you don't have the zoning, then you do need to come in.

Commissioner Anderson: ... and I have stuff that says that requires somebody, and it talks about complying with local building and zoning.

City Attorney Hernandez: They have to.

Commissioner Anderson: We just have to know.

Commissioner Cabrera: And in addition to all of that, the attorney does stipulate that the Charter School law also specifies that the question of school capacity is determined by the governing board of the school, and he cites Florida Statute 1002.33, and he further discusses the municipality or local facilities governing authority cannot set an arbitrary student capacity.

Commissioner Withers: I would feel more comfortable...[inaudible]

Commissioner Cabrera: I would too.

[Laughter]

Commissioner Cabrera: But wait a minute this is a public process, the reason Ms. Anderson brought this up, she has a myriad of reasons for bringing it up, but I am also very confident that one of the reasons, she wanted to discuss it is because she wants to get it on a public forum. All I am doing is trying to get documents that are public documents out in the public forum. So you, the people that are in this audience today and those that may be watching on TV or on the website know that there is dialogue going back and forth regarding this matter. I am not for one minute suggesting that I am taking any legal position or legislative position on this issue. I am just simply suggesting that this is good information to get out there.

City Attorney Hernandez: And the law provides that they must comply with the capacity requirements of the Building Code and the Fire Code, so they must comply with those requirements and they must demonstrate to the City through our DRC process that they comply with those provisions. They have not made any application. They have not submitted any formal letter saying this is what our project is, we would like to go through the process. They submitted nothing. They have done courtesy calls on City officials.

Vice Mayor Kerdyk: Thank you very much for clarifying, because I thought that just by having the religious zoning, allowed them to go in.

Mayor Slesnick: It may.

Vice Mayor Kerdyk: It may.

Mayor Slesnick: I am not convinced that what the interpretation is. So let's not.

City Manager Salerno: Mayor?

Vice Mayor Kerdyk: Who would know?

Mayor Slesnick: Well, Liz is going to make a decision at sometime, and Liz' decision is going to be based on her own research, she is probably going to take a look to see if the Attorney General has opined in any of this, or whether there is any legislative history behind the words.

City Attorney Hernandez: The School Board attorney agrees with my interpretation.

Mayor Slesnick: And she is also going to have a meeting with the School Board attorney at some point in time. I think it is really being unfair to Liz at the moment, at some point in time she will issue an opinion to this body as to what her, and by the way, once she does that we will probably stick with her opinion and defend it legally if we think it differs from what we are told otherwise.

Commissioner Cabrera: I just think it has been exceedingly helpful that she has copied us on the dialogue between her office and the attorney that represents Academica. Prior to that, I had no information whatsoever.

Mayor Slesnick: But rather than putting Liz and the City Manager again on the spot, I will say on their behalf that it is exceedingly hard for a City to respond in detail to something which hasn't been proposed.

Commissioner Cabrera: I agree.

City Attorney Hernandez: Right. And we have been working cooperatively and meeting with everybody.

Mayor Slesnick: Well, OK.

Commissioner Cabrera: No finish what you are saying.

Mayor Slesnick: People don't want me to say it.

Commissioner Cabrera: I want you to.

Mayor Slesnick: What I was going to say is that I was trying to take, instead of direct responses from the Attorney and the Manager, and what I have tried to explain to some people who have interacted with us, is that we, I had a meeting, and I have said to some people before the meeting, you can come in and meet with me, but I don't know anything, come in for what it is worth.

Commissioner Cabrera: You show them your picture of skydiving.

Mayor Slesnick: And I appreciate the fact that the citizens want us to know something and they want us to know their opinion, and I appreciate that, and that is why I have meetings with people who request them, I just have to tell you that right now we are waiting for Academica and the University Baptist Church to make a proposal to the City, and what Maria has done and what

everyone has said here and what the Manager and the City Attorney are doing are preparing in advance to respond to that when it gets to us.

City Attorney Hernandez: And just so that you know, they have time deadlines or they will lose the ability to move forward so, it is incumbent on them to move forward.

Mayor Slesnick: The other thing that I have assured the residents that I have talked to is that if the City has legitimate roles in any of this process and we do a review, it will be public and it will be inclusive and everybody will be included and that is if and when we get there. And so we are trying to get there. Mr. Manager.

City Manager Salerno: Thank you Mayor, just so you know that visit I had was a courtesy visit from those people, from the people from Academica, where they informed me at that time that they had already met with everybody on the City Commission, so there was no purpose for us to inform anyone of anything since they had already met, we were the last ones, the way it was presented to us and we were contacted.

Commissioner Anderson: And you met with them before they called me, right?

City Manager Salerno: Well since they indicated to me that they had met with all of the members of the Commission.

City Attorney Hernandez: And they had not.

City Manager Salerno: And they apparently hadn't, that's what I was told and there was no need for staff to inform anybody of the contact because you all based upon their knowledge had already met with them, and as Commissioner Cabrera indicated today he did meet with them and Commissioner Anderson had not, and I guess some others had.

Mayor Slesnick: Before you leave that point, remember where you are I don't want to cut you off, but before you leave that point, let's not make anyone like bad people here. I don't know that anybody is a bad person here, not I didn't say you were, but no the conversation has now gotten around though, did they meet? Did they not meet? What did they say? The fact of the matter is that University Baptist Church has been a member of this community longer than most of us have, I mean I don't know the exact date of establishment...

City Attorney Hernandez: [Inaudible]

Commissioner Anderson: And I made that clear at the beginning of my statement as well.

Mayor Slesnick: So anyways, it has been a great neighbor, it has been a good church, and they service good people and lots of citizens of our community. Plus as I have told other people, when I came to office, I don't know what Chip and Bill heard before I got here, but I can tell you that Maria and Ralph and I would probably agree, I don't want to say that you would, but the

first few years here we were being banged on to get a Charter School in this community, that was a major emphasis of a lot of parents. Get a Charter School, give us choice, we want choice.

Commissioner Cabrera: And I supported that effort.

Mayor Slesnick: OK. That is just background, all I am saying is that, it started about a year ago UBC talking about leaving the City and moving south, and I would like to say, and I have said this to the residents, Carlos, I have met with, I said, if UBC left, the whole property would be in question as to what would happen there and how it would be, and I have always hoped that UBC would decide to stay; and UBC came up with a plan to try to share expenses with some other entity, obviously the school, and to stay at the property and leased it while part of their congregation move south. So there is nobody here trying to do something evil, everybody is trying to do what they need to do, to move forward and to next year and to do the right thing. The meetings, I will just confirm with how Commissioner Cabrera described his meeting, I mean my meeting was similar about a year ago and I have probably met with UBC members all, but everyday of my life in office, like most of us have, because they are residents here, and that is that they wanted to have a Charter School there and they felt they might have found someone to do a Charter School and they may come to us or they may move or they may not move, or they may try this or they may not try this. And I thought this was all very interesting and that is how we left the conversation. So that is it, so now I am going back to you Mr. Manager.

City Manager Salerno: Thank you.

Mayor Slesnick: I mean I don't think there is any reason to think that they tried to deceive anybody, they came to us and said we are trying to do something different and we are trying to do a Charter School, so we said, OK. I'll see you the next time around. Now we are here.

City Manager Salerno: My comment was merely to indicate that it was a courtesy meeting with them informing me of that they had already shared the information they were going to share with me, with the members of the Commission. That was my only purpose for doing so, to make sure, that everybody, staff felt at that time that Commissioners were certainly as aware as we were from that meeting. I think from staffs perspective, the information as to what they have received approval from the school board is available. What staff needs is to know, and I think Mayor you just characterized it, is staff needs to know what role do we have in reviewing this project? That begs the legal question, therefore their attorney is asking our attorney, what is your position as to the State Statute, City Ordinances, etc. that will govern? Likewise, the City Attorney is responding back asking for their view of the matter. Staff is not going to be able to take a position on what we should be doing until we get that information. If the City Attorney feels she needs to wait for an application, so be it, but until we get something from the City Attorney telling us what role we have?-what is the process going to be?-in some level of specificity that we can proceed and base our actions on, we are not going to be moving forward. As soon as whatever that is, whatever the City Attorney, when she feels comfortable and issuing us that, then we will proceed. I am not trying to say the City Attorney should do it now, or tomorrow, until that happens we are not able to move forward.

Mayor Slesnick: To conclude this, let's just say this. It is my understanding now after the conversation that the City Attorney will not be waiting necessarily for a formal application of any kind, but because this subject has come up if you will, emerged into the light, the City Attorney has scheduled a series of meetings which should bring her to a position of being able to formulate an opinion, generally, of what our role is, if any Charter School came and asked for any permission to serve at any church property, and Liz I think that is really what we would like.

City Attorney Hernandez: Mr. Mayor thank you for saying that, but let me just be clear, OK.

Mayor Slesnick: OK.

City Attorney Hernandez: Yes, the Charter School attorneys have to submit an application to the City in order for the City to respond. My position, my legal position is that they have to go first and foremost through our DRC process. They have not done so, the school board gives them a checklist of what they are required to obtain from the municipalities, and we have that checklist. So it is not like the applicant is going about in the dark, not knowing what they need to do. What their email was intended to do was an attempt to get us to say "You are right, you don't have to comply with any of our zoning rules", and that is not our position. Our position is you do, unless you prove otherwise and that is what the back and forth was with the attorney.

Mayor Slesnick: And all that I am saying is I think the Commission now would really like some general guidelines as to how we will approach any Charter School coming to any church.

City Manager Salerno: That is what we need Mayor, any Charter School.

Commissioner Cabrera: The DRC process.

Mayor Slesnick: Well, I don't know that the DRC process is complete and as far as the variance between the State Statute and our Code. I really need that answered.

Commissioner Cabrera: OK.

Mayor Slesnick: I think you do too, I think the City Attorney knows that.

Commissioner Anderson: Thank you. Clarity will be forthcoming.

[1:23:20 p.m.]